LIMITATION OF ACTION — ACCRUAL OF ACTION — EFFECT OF APPEAL ON RUNNING OF STATUTE OF LIMITATIONS. — A suit was brought for money paid upon an existing consideration which later failed through judicial action setting the transaction aside. The statute of limitations required suit for such money to be brought within three years from the date of the failure of the consideration (1877 INDIAN LIMITATION ACT, Art. 97). This action was brought within three years of the dismissal of an appeal from the decree setting aside the original transaction, but more than three years from the decree of the lower court. *Held*, that the action is barred. *Boid* v. *Chowdhury*, 26 Madras L. T. R. 131 (Privy Council).

Where an appeal has the effect of suspending the judgment from which appeal is taken, the running of the statute of limitations on a cause of action arising out of the judgment should likewise be suspended. *Irvine* v. *Bankard*, 181 Fed. 206; *Bowen* v. *Lovewell*, 119 Ark. 64, 177 S. W. 929; *Donovan* v. *Dickson*, 37 No. Dak. 404, 164 N. W. 27. If a stay or supersedeas bond or other security named in the statute be given, an appeal will suspend the original judgment. *Hubbard* v. *Bank of Los Angeles*, 120 Cal. 632, 52 Pac. 1070; *Coombs* v. *Barker*, 33 Mont. 74, 81 Pac. 737. And even though no security is given, this is true under some statutes. *Sunter* v. *Sunter*, 204 Mass. 448, 90 N. E. 561; *Merrifield* v. *Piano Co.*, 238 Ill. 526, 87 N. E. 379. But in general, if no security be given, a judgment is not affected by an appeal. *In re Nat'l Metal Co.*, 155 Fed. 690; *Ex parte Meyer*, 209 N. Y. 59, 102 N. E. 606. And in the principal case, the court found this to be the case under the Indian law. The cause of action accrued to the plaintiff at the time of the original decree. Since that decree is enforceable notwithstanding the appeal, there is no reason why the statute of limitations should be suspended during the appeal. *Delay* v. *Yost*, 59 Kan. 496, 53 Pac. 482; *Bank of Stockham* v. *Weins*, 12 Okla. 502, 71 Pac. 1073; *Howard Ins. Co.* v. *Silverberg*, 94 Fed. 921.

PROXIMATE CAUSE — MUNICIPAL CORPORATIONS — NOTICE OF ONE DEFECT IN SIDEWALK PUTS CITY ON NOTICE OF ANOTHER DEFECT. — An inspector of the appellant city noticed a small hole chipped in the end of a plank in a board walk, and ordered a new plank inserted. The plank, though apparently sound except for the hole, was rotten in the middle; and three days after the inspector's order the respondent was hurt by stumbling through it. The jury found the city negligent in delaying to insert the new plank. *Held*, that judgment for the respondent be affirmed. *City of Winnipeg* v. *Einarson*, 50 D. L. R. 440 (Manitoba).

The hole was a defect which the city was under a duty to repair. *Upham* v. *City of Boston*, 187 Mass. 220, 72 N. E. 946. Failure to repair the hole after notice was negligence in the performance of that duty. And it may be assumed from the inspector's order that the reasonable way to repair it was by inserting a new plank. It follows that if the city had done its duty in repairing the hole it would have discovered the defect in the center of the plank. Under these circumstances the city is chargeable with notice of the latent defect in the center, and hence not to repair it constituted negligence. *Dallas* v. *McAllister*, 39 S. W. (Tex.) 173. This negligence was a proximate cause of the injury; for the only intervening cause between it and the injury was the act of the plaintiff in stepping on the plank, and that act was surely forseeable. In other words, the city by its negligence took the risk that some one would step on the plank, and the city must be liable for the direct result. See Joseph H. Beale, "The Proximate Consequences of an Act," 33 HARV. L. REV. 633, 650.

REMOVAL OF CAUSES — SEPARABLE CONTROVERSY — FRAUDULENT JOINDER AS GROUND FOR REMOVAL FROM STATE TO FEDERAL COURTS. — In an action brought in the state court against a non-resident corporation and its resident